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March 29, 2012

Mr. Neil Manji
Region 1 Director
California Department of Fish and Game
601 Locust Street
Redding, CA 96001

Re: Resighini Rancheria California Public Records Act Request for Information Related to California Department of Fish and Game and U.S. Fish and Wildlife Service Communications Prior to April 22, 2010 Biological Opinion Modification for Klamath Project Operations

Dear Neil,

This request is from the Resighini Rancheria, a federally recognized Tribe with a Reservation located at the top of the Klamath River estuary approximately three miles upstream of the Pacific Ocean. We are following up on our consulting fisheries biologist Patrick Higgins' informal request sent to you via email on February 16, 2012 and also made of your Siskiyou County Supervisor Mark Pisano on March 12, 2012. Mr. Higgins has provided both yourself and Mr. Pisano with copies of an April 22, 2010 U.S. Fish and Wildlife Service (USFWS) memo modifying their Biological Opinion with the U.S. Bureau of Reclamation for Klamath Project operation and allowing transfer of suckers out of Tule Lake under the presumption that it would become too shallow for their survival in 2010. It allowed the BOR to draw down Tule Lake and Clear Lake to levels that would potentially eliminate two of three remaining populations of shortnose and Lost River suckers that are listed under the federal Endangered Species Act (ESA). We believe this clearly constituted Jeopardy under ESA. Both the Tule Lake and Clear Lake populations are in California and both are also listed under the California Endangered Species Act (CESA) and as Fully Protected species under CDFG Code 5515.

Lost River suckers and shortnose suckers are recognized as "Fully Protected" animals under California Department of Fish and Game Code Section 5515 and actions taken with regard to both sucker species do not seem consistent with this statute:

"No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected fish, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be

made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.

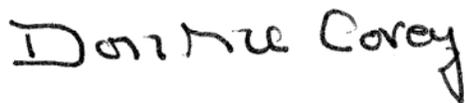
You are also in receipt of the comments on Critical Habitat for Lost River and shortnose suckers filed on behalf of the Resighini Rancheria, which points out that the new proposed USFWS Critical Habitat does not include either Tule Lake or Lower Klamath Lake. The current proposal constitutes only 23% of what was recommended by past USFWS Recovery Plans and also constitutes Jeopardy as defined by ESA to both sucker species in our opinion.

The Resighini Rancheria formally requests that CDFG provide the following information under the requirements of the California Public Records Act (CPRA):

- What knowledge did CDFG have of the USFWS April 22, 2010 modified Klamath Project operation B.O. before it was issued?
- Please provide both correspondences received from USFWS and any memos or emails back to them from CDFG staff.
- How did CDFG allow such actions when both these species are Fully Protected under CDFG Code Section 5515?
- If CDFG approved the modification of Tule Lake and removal of CESA listed sucker species, please inform us of the date of publication of the justification for your actions in the California Regulatory Notice Register.
- Please provide us with any comments that CDFG filed with USFWS regarding designation of Critical Habitat during the comment period in late 2011 through February 2012.
- Does the abrogation of duty by USFWS to uphold ESA as described above change CDFG's willingness to provide a blanket "take permit" under CESA for Lost River and shortnose suckers within California as required by the Klamath Basin Restoration Agreement 24.2.2?

To the degree possible, the Resighini Rancheria asks that documents requested be provided in electronic format. We look forward to receiving your response within 10 days, as required by CPRA.

Sincerely,



Donald McCovey
Chairman, Resighini Rancheria Tribal Council

CC: Mark Pisano, CDFG Siskiyou County Supervisor